

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LIONELL ERNEST THOLMER,

Petitioner,

vs.

JAMES GOMEZ, et al.,

Respondents.

Case No. 2:95-cv-01901 (JKS) (GGH)

ORDER

Petitioner, a state prisoner proceeding pro se, seeks “reconsideration” of the October 16, 2002, dismissal of his habeas corpus petition for abuse of the writ. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On July 26, 2007, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. The Court will liberally construe petitioner’s purported Rule 60(b) motion, filed on the same day as the Findings and Recommendations, as objections to the Findings and Recommendations.¹

¹ The magistrate judge has addressed the application of Rule 60(b) to this matter in the Findings and Recommendations.

1 The Court has reviewed the file *de novo* and finds the findings and recommendations to
2 be supported by the record and by the magistrate judge's analysis.

3 Accordingly, **IT IS HEREBY ORDERED** that:

- 4 1. The findings and recommendations filed July 26, 2007, are adopted in full; and
5 2. Petitioner's² "motion for reconsideration" filed on February 23, 2007, construed as a
6 successive petition, is dismissed.
7 3. The Clerk shall enter judgment in favor of the Respondent.

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9 Dated this the 19th day of December 2007.

10 /s/ James K. Singleton, Jr.
11 **JAMES K. SINGLETON, JR.**
12 United States District Judge
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25 _____
26 ² The inadvertent reference to "respondent's" motion in the recommendation clause is
herein rectified.